

Appl. No.: 09/848,519  
Amtd. dated 08/18/2005  
Reply to Official Action of June 27, 2005

### REMARKS/ARGUMENTS

Applicant appreciates the thorough examination of the present application, as evidenced by the first Official Action. In addition, Applicant appreciates the Examiner taking the time to conduct a telephone interview with Applicant's undersigned attorney regarding the first Official Action. In this regard, the first Official Action rejects the methods of Claims 1-6 and 15-20 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. More particularly, the Official Action asserts that for a claim to be directed to statutory subject matter, the subject invention (a) must be within the technological arts, and (b) must produce a useful, concrete and tangible result. And although the Official Action concedes that the subject invention produces a useful, concrete and tangible result, the Official Action alleges that Claims 1-6 and 15-20 do not apply, involve, use or advance the technological arts since all of the recited steps may be performed manually.

Contrary to the Official Action, Applicant respectfully submits that Claims 1-6 and 15-20 are, in fact, directed to statutory subject matter under § 101, and accordingly Applicant traverses this rejection of the claims. Nonetheless, to advance prosecution of the present application, Applicant has amended independent Claims 1 and 15 to further clarify the claimed invention by further reciting that the voting step occurs electronically via a processor adapted to process a plurality of votes resulting therefrom. As such a processor and the processing adapted to be performed by the processor are clearly within the technological arts, Applicants respectfully submit that amended independent Claims 1-6 and 15-20 are directed to statutory subject matter, and accordingly respectfully submit that the rejection of Claims 1-6 and 15-20 as being directed to non-statutory subject matter is overcome.

In addition to the aforementioned statutory subject matter rejection, the first Official Action also rejects all of the pending claims, namely Claims 1-20, under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,995,951 to Ferguson. As explained during the telephone interview and below, Applicant respectfully submits that the claimed invention of the present application is patentably distinct from the Ferguson patent. Applicant therefore respectfully traverses the rejection of the claims as being anticipated by the Ferguson patent. In view of the amendments to independent Claims 1 and 15 and the remarks presented herein, Applicant

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respectfully requests reconsideration and allowance of all of the pending claims of the present application.

Generally, the Ferguson patent discloses a method and apparatus for asynchronous network collaboration. As disclosed, a user selects a problem to be solved by users collaborating across a network, where the problem can be determined by an individual, committee or the like. In response to the selected problem, each of a number of network users develop and submit initial proposed solutions to a central server. After the initial proposed solutions are submitted, the central server distributes the initial proposed solutions to each of the network users. In turn, each network user reviews and ranks the initial proposed solutions to thereby determine a narrowed group of proposed solutions that will proceed to the next "round" of review. As with the initial proposed solutions, the narrowed group of proposed solutions is distributed to each of the network users. The network users can then update or otherwise modify one or more statements of the proposed solutions, after which the updated proposed solutions are submitted to the central server. The central server distributes the updated proposed solutions for ranking by the network users to again determine a narrowed group of proposed solutions. The process can then repeat for a number of iterations until a "final" proposal is developed based upon statements from the proposed solutions remaining at that instant.

***A. Request for Telephone Interview***

Applicant's attorney hereby requests a follow-up telephone interview after the Examiner has had an opportunity to review the remarks provided herein. Such an interview would be brief and would focus only on the current rejections and cited references. Applicant's attorney, Andrew Spence, can be reached at 704-444-1411.

***B. Claims 1 – 20 are Patentable over Ferguson***

More particularly, according to one aspect of the claimed invention, as embodied in amended independent Claim 1 and similarly independent Claim 7 and amended independent Claim 15, a method for assessing a process of an organization includes acquiring information concerning the organization and the process. A plurality of preliminary findings (see, e.g., FIG.

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4, reference 26) is then developed based upon the information, where each preliminary finding is characterized as a strength or weakness (see, e.g., FIG. 4, reference 30). Next, a vote for agreement or disagreement with each preliminary finding is taken (see, e.g., FIG. 4, reference 32), or as recited in amended independent Claim 15, a vote of agreement or disagreement with the characterization of each of the preliminary findings is then taken (see, e.g., FIG. 4, reference 34). As amended, the voting occurs electronically via a processor adapted to process votes resulting therefrom. Thereafter, a plurality of final findings is developed, where each final finding is similarly characterized as a strength or weakness. In this regard, the plurality of final findings is based upon the vote for the conclusion (or valuation in amended independent Claim 15) associated with each preliminary finding.

In contrast to amended independent Claim 1, and similarly independent Claim 7 and amended independent Claim 15, as explained during the telephone interview, the Ferguson patent does not teach or suggest assessing a process of an organization according to a method that includes (a) developing preliminary findings based upon information concerning the organization and the process, where each finding is characterized as either a strength or weakness, (b) electronically voting for agreement or disagreement with each finding (or with the characterization of each finding), and then (c) developing final findings based upon the vote, where the final findings, like the preliminary findings, are each characterized as a strength or weakness (i.e., each final finding includes the characterization). Again, the Official Action alleges that the Ferguson patent discloses submitting, reviewing and ranking groups of proposed solutions to the problem to narrow down the group to proposed solutions that proceed to a next round of review for further refinement and consideration (citing column 5, lines 18-22), and that this disclosure corresponds to the recited feature of developing preliminary findings that are each characterized as a strength or weakness. The Official Action alleges that the Ferguson patent discloses reviewing and ranking the previously ranked solutions, and that this disclosure corresponds to the recited feature of voting for agreement or disagreement with the findings. Then, the Official Action alleges that the Ferguson patent discloses synthesizing a final proposed solution, and that this disclosure corresponds to the recited feature of developing final findings.

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In contrast to the aforementioned allegations in the Official Action, Applicant respectfully submits that the identified features of the Ferguson system cannot reasonably correspond to the respective features of the claimed invention. In this regard, presume for the sake of argument (although expressly not admitted) that the Ferguson patent disclosure of ranking proposed solutions corresponds to the recited step of developing preliminary findings that are each characterized as a strength or weakness, where the disclosed proposed solutions correspond to the recited preliminary findings and the disclosed rankings correspond to the recited characterizations. In such an instance, to anticipate the voting feature of the claimed invention, the Ferguson patent would necessarily have to disclose voting for agreement or disagreement with each ranked (or characterized) proposed solution. The Ferguson patent, however, does not teach or suggest taking any vote with respect to ranked solutions, much less a vote for agreement or disagreement with the ranked solutions, in a manner similar to the voting step of the claimed invention with respect to characterized preliminary findings. Instead, the Ferguson patent discloses narrowing down the group of proposed solutions based upon the ranking itself.

Further consider for the sake of argument (again expressly not admitted) that the Ferguson patent disclosure of synthesizing a final proposed solution corresponds to the recited feature of developing final findings, and again that the disclosed rankings correspond to the recited characterizations. In such an instance, to anticipate development of the final findings, the Ferguson patent would necessarily have to disclose that a plurality of final proposed solutions are developed, and that those final solutions each have a ranking. The Ferguson patent, however, discloses synthesizing a single final proposed solution as opposed to a plurality of proposed solutions, similar to the final findings of the claimed invention. Accordingly, the Ferguson patent does not teach or suggest that the final solution is ranked, similar to the final findings having strength/weakness characterizations in the claimed invention.

Applicant therefore respectfully submits that amended independent Claim 1, independent Claim 7 and amended independent Claim 15, and by dependency Claims 2-6, 8-14 and 16-20, are patentably distinct from the system and method of the Ferguson patent. Accordingly,

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Applicant respectfully submits that the rejection of Claims 1-20 as being anticipated by the Ferguson patent is overcome.

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### CONCLUSION

In view of the amendments to the claims and the remarks presented above, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

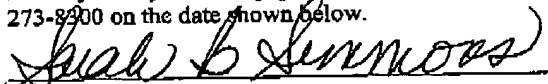


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#### CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (571) 273-8200 on the date shown below.

  
Sarah B. Simmons

Sept. 22, 2005  
Date